IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2570 of 1994

Philips India Limited,
a Company duly registered
under the Companies Act, 1956
having its registered office
at 7, Justice Chandra Madhab Road,
Calcutta - 700 020
and its Head Office at Block "A",
Shivsagar Estate,
Dr.Annie Besant Road,
Bombay - 400 018. ..Petitioner

VERSUS

1. Union of India

2. The Joint Secretary to the
Government of India,
Ministry of Finance,
3rd Floor, Jivan Deep,
Sansad Road (Parliament
Street),
New Delhi - 110 008.

3. Collector of Customs,
Bombay having his office
at New Customs House,
Ballard Estate,
Bombay - 400 038 ..Respondents

Miss.Alpana Ghone with Miss.S.Tandon i/b. M/s.Shah, Desai, Doijode, Phatarphekar for the Petitioner.

Shri.A.J.Rana, Sr.Counsel with Sou.S.V.Bharucha for the Respondents.

CORAM : DR.S.RADHAKRISHNAN &
J.P.DEVADHAR, JJ.

DATE : 15TH FEBRUARY, 2006.

JUDGMENT - (PER : J.P. DEVADHAR,J.)

1. In this petition, the Petitioner has challenged the Order in Original dated 29th June, 1993 wherein the Assistant Collector of Customs has

rejected the drawback claim of the Petitioner as untenable.

2. The admitted facts are that the Petitioner had imported parts of potentiometer in belting form strapped in returnable hard board spools. It is not disputed that the Petitioner has paid the duty amount to Rs.3,26,943 separately in respect of the spools out of the aggregate duty of Rs.13,51,485 paid by the Petitioner at the time of clearance of the goods. It is also not in dispute that the potentiometers and the spools were also valued and assessed the import duty separately. It is further admitted by the Customs Authority that the Petitioner has in fact re-exported the spools as per the contract.

3. It appears that the drawback on the spools has been denied on the ground that what was imported was potentiometers and what was exported were spools and therefore, the Petitioner is not entitled to drawback on spools.

4. In our opinion, the Adjudicating Authority was totally in error because it is an admitted fact as can be seen from the affidavit-in-reply filed by Shri.V.R.Thorawade, Assistant Commissioner of Customs on 1st December, 2003 wherein it is specifically

stated that the potentiometers and the spools were valued and assessed to import duty separately. Thus, it is clear that the spools have been imported and assessed separately and the duty has been paid on spools separately and therefore, on the re-export of the said spools, the Petitioner cannot be denied the drawback.

5. Accordingly, the Petition succeeds. Impugned order is quashed and set aside. Rule is made absolute in terms of prayer clauses (a) & (b).

6. Respondents are directed to refund the drawback on spools within a period of eight weeks from today with 8% interest. It is made clear that if the aforesaid amount is not paid with interest within eight weeks from today, then the Respondents shall be liable to pay interest @ 12% on the rebate claim from 7th April, 2006 till payment.

(DR.S.RADHAKRISHNAN,J.)

(J.P.DEVADHAR,J.)